

REMARKS

Applicants thank the Examiner for the thorough examination given the present application.

Status of the Claims

Claims 1 and 3 are pending in the above-identified application. Claim 1 has been amended. Support for the recitations in claim 1 can be found in the examples and claim 6 as well as in the present specification, *inter alia*, at paragraphs [0014] and [0023]. In addition, Examples 1-8 are oil solutions without water, and Example 9 is a water-in-oil microemulsion. Table 1 shows that each of the oil solutions of Examples 1-8 can form a water-in-oil microemulsion. Claim 6 is cancelled herein. Thus, no new matter has been added. Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Statement of the Substance of the Interview

Applicants thank the Examiner for his time during the interview on June 29, 2010. Applicants appreciate the courtesies extended to Applicants' Representative in this application. In compliance with MPEP 713.04, Applicants submit the following remarks.

The Interview Summary sufficiently summarizes the discussions during the interview. Based on the discussions during the interview, Applicants believe that the claims are now in condition for allowance. Should the Examiner believe that there remains any outstanding issues, Applicants respectfully request that the Examiner contact Applicants' Representative so as to expedite resolution of these outstanding issues, via an Examiner's Amendment or the like.

Issues under 35 U.S.C. § 112, first paragraph

Claim 1 is rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner asserts that the present specification does not provide support for an average degree of polymerization range of 15 to 50. Applicants respectfully traverse in view of the amended claim.

Claim 1 is amended herein to recite “a polyglycerol selected from the group consisting of pentadecaglycerol or eicosaglycerol.” As such, Applicants respectfully submit that this amendment overcomes the outstanding rejection and that the rejection should be withdrawn.

Issues under 35 U.S.C. § 103(a)

1) Claims 1, 3, and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Jakobson et al. ‘719 (US 5,446,719) in view of JP ‘654 (JP 2001-025654).

2) Claims 1, 3, and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JP ‘456 (JP 2003-012456) in view of Jakobson et al. ‘719.

3) Claims 1, 3, and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over JP ‘654.

Applicants respectfully traverse. Reconsideration and withdrawal of these rejections are respectfully requested based on the following considerations.

Legal Standard for Determining Prima Facie Obviousness

MPEP 2141 sets forth the guidelines in determining obviousness. First, the Examiner has to take into account the factual inquiries set forth in *Graham v. John Deere*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), which has provided the controlling framework for an obviousness analysis. The four *Graham* factors are:

- (a) determining the scope and content of the prior art;
- (b) ascertaining the differences between the prior art and the claims in issue;
- (c) resolving the level of ordinary skill in the pertinent art; and
- (d) evaluating any evidence of secondary considerations.

Graham v. John Deere, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966).

Second, the Examiner has to provide some rationale for determining obviousness. MPEP 2143 sets forth some rationales that were established in the recent decision of *KSR International Co. v Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007).

As the MPEP directs, all claim limitations must be considered in view of the cited prior art in order to establish a *prima facie* case of obviousness. See MPEP 2143.03.

Distinctions over Jakobson et al. '719 in view of JP '654

As the Examiner admits, Jakobson et al. '719 fail to disclose an average degree of polymerization from 15-50. The Examiner relies on JP '654 to overcome this deficiency. The Examiner asserts that paragraph [0011] of JP '654 discloses an average degree of polymerization of 2-16.

However, as amended, independent claim 1 recites "a polyglycerol selected from the group consisting of pentadecaglycerol or eicosaglycerol." As such, the combination of Jakobson et al. '719 and JP '654 fails to disclose the claimed polyglycerol.

Distinctions over JP '456 in view of Jakobson et al. '719

JP '456 and Jakobson et al. '719 only disclose an oil-in-water emulsion. As amended, claim 1 recites that "said cleansing cosmetic is an oil solution or a water-in-oil microemulsion." As such, the combination of JP '456 and Jakobson et al. '719 fails to disclose an oil solution or a water-in-oil microemulsion.

Distinctions over JP '654

As discussed above, JP '654 fails to disclose the claimed polyglycerol. Accordingly, JP '654 fails to disclose each and every element of the pending claims.

Summary

To establish a *prima facie* case of obviousness of a claimed invention, all of the claim limitations must be disclosed by the cited references. As discussed above, the cited references fail to disclose all of the claim limitations of independent claim 1, and those claims dependent thereon. Accordingly, the combinations of references do not render the present invention obvious.

Furthermore, the cited references or the knowledge in the art provide no reason or rationale that would allow one of ordinary skill in the art to arrive at the present invention as claimed. Therefore, a *prima facie* case of obviousness has not been established, and withdrawal of the outstanding rejections is respectfully requested. Any contentions of the USPTO to the contrary must be reconsidered at present.

Conclusion


All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad M. Rink, Registration No. 58,258, at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

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Respectfully submitted,

By 

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